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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

UNITED STATES OF AMERICA,)	CIVIL NO. 09-00553ACK LEK
)	
Petitioner,)	REPORT AND RECOMMENDATION ON
)	PETITION TO ENFORCE INTERNAL
v.)	REVENUE SERVICE SUMMONS
)	
TANYA R. YOKOYAMA,)	
)	
Respondent.)	
_____)	

REPORT AND RECOMMENDATION ON
PETITION TO ENFORCE INTERNAL REVENUE SERVICE SUMMONS

A hearing was held on Monday, January 4, 2010, before this Court on the Petition to Enforce Internal Revenue Service Summons ("Petition") filed by the United States of America ("United States"). Assistant United States Attorney Thomas A. Helper and Internal Revenue Service ("IRS") Revenue Officer Allan Chow appeared on behalf of the United States. Respondent Tanya R. Yokoyama ("Respondent") did not appear. Based upon the

written and oral argument of counsel, and the pleadings filed herein, the Court hereby makes the following findings of fact:

1. The IRS is conducting an investigation to determine Respondent's liabilities for the trust fund recovery penalty for the quarters ended September 30, 2002, December 31, 2002, March 31, 2003, June 30, 2003, September 30, 2003, December 31, 2003, March 31, 2004, June 30, 2004, September 30, 2004, December 31, 2004, March 31, 2005, June 30, 2005, September 30, 2005, December 31, 2005, March 31, 2006, June 30, 2006, September 30, 2006, December 31, 2006, March 31, 2007, and June 30, 2007.

2. On August 27, 2009, the IRS served a duly issued summons upon Respondent which directed Respondent to appear before IRS Revenue Officer Jamie L. Bent on September 16, 2009, to testify and produce her books, records and papers described in the summons.

3. Respondent did not appear before Revenue Officer Jamie Bent on September 16, 2009, in response to the IRS summons.

4. Respondent's failure to comply with the IRS summons continued until November 20, 2009, when the United States filed the instant Petition, and the district judge issued the Order to Show Cause on November 23, 2009.

5. On December 1, 2009, the Petition and the Order to Show Cause were personally served upon Respondent.

6. To date, Respondent has not filed any substantive response or objection to the Petition, and has not complied with the IRS summons.

7. Respondent failed to appear at the hearing on the Order to Show Cause.

Based upon the above findings, and the Court being otherwise fully advised in the matter, this Court concludes as follows:

All the government needs to do to establish a prima facie case for enforcement of a summons is to show that the summons is issued for a legitimate purpose, the data sought may be relevant to that purpose, the data is not already in the Internal Revenue Service's possession, and the administrative steps for issuance and service of a summons have been followed. See United States v. Powell, 379 U.S. 48, 57-58 (1964). In the present case, the United States has established a prima facie case for enforceability with the Declaration of Revenue Officer Jamie L. Bent.

Therefore, this Court HEREBY RECOMMENDS that the district judge enter an order as follows:

(1) That the Internal Revenue Service summons served upon Respondent Tanya R. Yokoyama shall be enforced and she shall obey the summons in full;

(2) Respondent Tanya R. Yokoyama is directed to produce all documents responsive to the Internal Revenue Service Summons by January 28, 2010; and

(3) That should Respondent fail to fulfill the requirements of the order, then the United States may forthwith move for a hearing on motion for contempt of the order.

DATED: Honolulu, Hawaii, January 5, 2010.



/S/ Leslie E. Kobayashi
Leslie E. Kobayashi
United States Magistrate Judge

USA v. TANYA R. YOKOYAMA;
Civil No. 09-00553 ACK LEK;
"Magistrate's Report and Recommendation on Petition to Enforce
Internal Revenue Service Summons"